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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,052	02/19/2004	Bruce J. Wells	040135-000100US	6841
20350 7590 12/31/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER ARAQUE JR, GERARDO	
			ART UNIT 3629	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,052

Applicant(s)

WELLS, BRUCE J.

Examiner

Gerardo Araque Jr.

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-29, 32-38, 53, 58, 59, 62 and 65-72 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-29, 32-38, 53, 58, 59, 62 and 65-72 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

2. **Claim 21** objected to because of the following informalities: the **last line of claim 21** should read "**least**" not "**lease**". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 10 – 11, 17, 21, 23, 28 – 31, 35, 53, 59, 62, and 65 - 72** rejected under 35 U.S.C. 102(e) as being anticipated by **Van Wormer (US Patent 5,154,314)**.

5. In regards to **claims 10, 65 - 66, Van Wormer** discloses in a relationship between a fluid supplier and a user, a method of distributing an industrial fluid, the method comprising:

providing at the user's location a fluid container having contained therein a volume of an industrial fluid, wherein the fluid container and the industrial fluid contained therein are owned by the fluid supplier, and wherein the fluid container at the user's location is isolated from a bulk supply of the fluid (**Col 4 Line 6**);

allowing the user to dispense, with a hand-operated dispensing device, an amount of the industrial fluid from the fluid container (**Col 4 Lines 7**);

as the amount of industrial fluid is being dispensed from the fluid container, determining the amount of industrial fluid dispensed (**Col 4 Lines 32 - 36**);

transmitting, to a control computer at the user's location, data about the fluid dispensed from the fluid container (**Col 4 Lines 39 - 43**); and

accounting for the industrial fluid dispensed from the fluid container, wherein accounting for the industrial fluid dispensed from the fluid container comprises transmitting, from a web server to a web browser on a client computer operated by the fluid supplier, at least some of the data about the industrial fluid about the industrial fluid dispensed from the fluid container (**Col 4 Lines 39 - 43, 60 - 62**).

6. In regards to **claim 11, Van Wormer** discloses wherein providing at the user's location a fluid container having contained therein an industrial fluid comprises transporting the fluid container to the user's location while the fluid container has contained therein the industrial fluid (**inherently included see also Col. 4 Lines 4 - 5**).

7. In regards to **claim 17**, **Van Wormer** discloses wherein accounting for the industrial fluid dispensed from the fluid container comprises communicating to the fluid supplier information about the industrial fluid dispensed from the fluid container (**Col 4 Lines 39 - 43**).

8. In regards to **claims 21, 23, 53, 59, 62, 67 – 68, and 71 - 72**, **Van Wormer** discloses in a relationship between a fluid supplier and a user, a method of distributing fluids, the method comprising:

providing, at a user's location, a control computer configured to receive data about dispensed fluids (**Col 4 Lines 39 - 43**);

providing a fluid distribution station at the user's location, the fluid distribution station being configured to be coupled with one or more fluid containers, the fluid distribution station comprising a data communication interface that is configured to communicate with the control computer at the user's location, the fluid distribution station further comprising a dispensing device that dispenses fluid from the one or more fluid containers and a metering device that measures fluid dispensed from the one or more fluid container (**Col 4 Lines 39 – 43, 60 – 62; Col 11 Lines 57 – 59, 60 - 63; Col 12 Lines 34 - 40**);

providing one or more fluid container, each of the one or more fluid containers having disposed therein a volume of a fluid for distribution, the fluid being owned by the fluid supplier, wherein the one or more fluid containers are isolated from a bulk supply of the fluid (**Col 4 Line 6**);

coupling the one or more fluid containers with the fluid distribution station, such that the fluid distribution station and is in fluid communication with each of the one or more fluid container **(Col 4 Lines 8 - 28)**;

allowing the user to dispense an amount of fluid from one of the one or more fluid container, using the dispensing device **(Col 4 Lines 7 - 54)**;

as the fluid is being dispensed, determining with the fluid distribution station the amount of fluid dispensed from the fluid container **(Col 4 Lines 32 - 36)**;

transmitting, from the fluid distribution station and to the control computer, data about the dispensed fluid **(Col 4 Lines 39 - 43)**;

receiving, at the control computer, the data about the dispensed fluid **(Col 4 Lines 37 - 54)**; and

communicating to the fluid supplier, via a web server, at least some of the data about the dispensed fluid **(Col 4 Lines 37 - 54)**.

9. In regards to **claim 28, Van Wormer** discloses wherein the distribution station is mobile **(Col 11 Lines 57 - 59)**.

10. In regards to **claim 29, Van Wormer** discloses wherein the fluid distribution station comprises means for locomotion **(Col 11 Lines 57 - 59)**.

11. In regards to **claims 35, and 69 - 70, Van Wormer** discloses a method of dispensing an industrial fluid, the method comprising:

providing at a user's location a fluid distribution station, the fluid distribution station being configured to be coupled with at least one fluid container, the fluid distribution station comprising a data communication interface that is configured to

communicate with a control computer remote from the fluid distribution station, the fluid distribution station further comprising a hand-operated dispensing device that dispensed fluid from the fluid container and a metering device that measures fluid dispensed from the fluid container (**Col 4 Lines 39 – 43, 60 – 62; Col 11 Lines 57 – 59, 60 – 63; Col 12 Lines 34 – 40**);

providing, at the user's location, a control computer that is remote from the fluid distribution station, the control computer being configured to communicate, via wireless communication, with the fluid distribution station, the control computer being further configured to communicate, via a web server, with a client computer operated by the fluid supplier (**Col 4 Lines 37 – 54**);

coupling a fluid container with the fluid distribution station, such that the fluid distribution station and the fluid container are in fluid communication, the fluid container having contained therein a volume of an industrial fluid owned by a fluid supplier, the fluid container being located at the user's location and isolated from a bulk supply of the fluid (**Col 4 Lines 3 – 7, 37 – 54**);

dispensing an amount of fluid from the fluid container using the fluid distribution station (**Col 4 Lines 7 – 54**);

as the fluid is being dispensed, determining with the fluid distribution station the amount of fluid dispensed from the fluid container (**Col 4 Lines 32 – 36**);

transmitting, from the fluid distribution station and to the control computer, information about the fluid dispensed from the fluid container (**Col 4 Lines 37 – 54**); and

transmitting, from the control computer, via a web server, to the client computer, at least some of the information about the fluid dispensed from the fluid container (**Col 4 Lines 37 - 54**).

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 12 – 14, 18 – 20, 24 – 26, and 32 – 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Van Wormer (US Patent 5,154,314)**.

14. In regards to **claim 12 – 14 and 24**, **Van Wormer** fails to disclose the type of fluids as discussed in **claims 12 - 14 and 24**.

However, the Examiner asserts that it would have been obvious to one having ordinary skill in the art at the time of the invention that various types of industrial fluids can be used in the method and system of **Van Wormer**.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teachings of **Van Wormer** that any type of fluid, either in gaseous or liquid form, can be used.

15. In regards to **claims 18 and 25**, **Van Wormer** fails to disclose how the determination of accounting for the amount of industrial fluid remaining in the fluid container.

However, the Examiner asserts it is old and well known to determine the amount of fluid dispensed in a container when the container has a given volume. That is to say, a supplier is aware of the type of containers that it ships and the weight or pressure of the container when the container is full. One of ordinary skill in the art would know how to determine the amount of fluid dispensed by subtracting the amount left in the container from the amount delivered to the user, and vice versa.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teachings of **Van Wormer** for one of ordinary skill in to art to determine the amount of fluid remaining in the container since the original amount and the amount dispensed are both known.

16. In regards to **claim 19**, **Van Wormer** discloses wherein accounting for the amount of industrial fluid dispensed from the fluid container further comprises, if the amount of industrial fluid remaining in the fluid container is less than an threshold value, recording an order for additional Industrial fluid (**Col 10 Lines 7 - 12**).

17. In regards to **claim 20**, **Van Wormer** discloses wherein recording an order for additional industrial fluid comprises recording an order for an additional fluid container having contained therein the industrial fluid (**Col 10 Lines 26 - 28**).

18. In regards to **claim 26**, **Van Wormer** discloses communicating to the fluid supplier the amount of fluid dispensed, as discussed above. As a result, it would have been obvious to one having ordinary skill in the art that the amount remaining in the fluid container is indirectly transmitted as well.

19. In regards to **claims 32 – 34**, **Van Wormer** discloses transmitting from the control computer an authorization to dispense fluid from the fluid container, wherein the authorization to dispense fluid from the fluid container specifies an amount of fluid to be dispensed, and discloses transmitting from the fluid distribution station a request for an authorization to dispense fluid from the fluid container.

20. **Claims 15, 22, and 58** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Van Wormer (US Patent 5,154,314)** in view of **Hatton (US Patent 6,382,032 B1)**.

21. In regards to **claims 15, 22, and 58**, **Van Wormer** fails to disclose wherein accounting for the industrial fluid dispensed from the fluid container comprises

transferring from the fluid supplier ownership of the industrial fluid dispensed from the fluid container.

However, **Hatton** discloses that it is old and well known to transfer ownership for the material product in a flow stream, i.e. when metering the amount of fluid being consumed by a user (**Col. 1 Lines 27 – 31**). Such a method of metering provides an accuracy suitable for contract sale of gaseous products such that not significant cost error occurs in a contract sale.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to apply the teaching of transferring ownership, as taught by **Hatton**, to the **Van Wormer** in order to prevent any significant monetary cost error.

22. **Claims 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Van Wormer (US Patent 5,154,314)** in view of **Official Notice**.

23. In regards to **claim 16**, **Van Wormer** fails to disclose wherein accounting for the industrial fluid dispensed from the fluid container comprises billing the user for the industrial fluid dispensed from the fluid container.

However, **Official Notice** is taken that it is old and well known for an individual to be billed for the consumption of a product.. It is asserted that one having ordinary skill in the art would have found it obvious from the teachings of **Van Wormer** for the user to be charged for the fluid that was dispensed since it is an old and well known business practice.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention for **Van Wormer** in view of **Official Notice** to bill the user for

the industrial fluid dispensed from the fluid container since it is an old and well known business practice to charge an individual for the consumption of a product.

24. **Claims 27** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Van Wormer (US Patent 5,154,314)** in view of **Safeway**

(http://findarticles.com/p/articles/mi_hb4331/is_200006/ai_n15097473).

25. In regards to **claim 27**, **Van Wormer** discloses providing a fluid distribution station (**Col 11 Lines 57 - 59**).

However, **Van Wormer** fails to disclose leasing the fluid distribution station.

Safeway, however, discloses that it is old and well known to lease distribution centers (http://findarticles.com/p/articles/mi_hb4331/is_200006/ai_n15097473).

Although, **Safeway** does not disclose a fluid distribution station it can be appreciated that the concept of leasing out equipment/property is an old and well-known business practice so that a supplier would be able to focus on its business.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Van Wormer** in view of the teachings **Safeway** to lease a fluid distribution station in order for a supplier to focus on its business.

Van Wormer discloses the use of gas station pumps and their role is dispensing gasoline/diesel to users (**Col. 2 Lines 24 - 43**). As a result, **Official Notice** is taken that it is old and well known to transmit an authorization to a fluid container/fluid distribution station to dispense fluid, such as from a gas station pump. That is to say, that it is old and well known for a user to request authorization to pump at a gas station pump if the

credit card used to make the payment is accepted, as well as talking to a gas station manager to authorize a pump to dispense fluid in the event that a user is paying in cash.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to modify **Van Wormer** in view of **Official Notice** to provide a fluid container/fluid distribution station that requires authorization to dispense a fluid in order to provide a type of security to the fluid supplier in that the fluid will only be dispensed if specific criteria have been met, such as making necessary payments.

26. **Claims 36 - 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Van Wormer (US Patent 5,154,314)** in view of **Benson (US Patent 5,494,191)**.

27. In regards to **claim 36 - 38**, **Van Wormer** discloses:

coupling a second container with the fluid distribution station;
pressurizing the second container with a gas; and
dispensing the gas from the second container

Benson discloses that it is old and well known for fluid dispensing units to have a second container with a fluid distribution station and pressurizing the second container with a gas (**Col. 4 Lines 22 – 26**). Furthermore, it is old and well known to provide some type of pressure source to be fed into a container that is dispensing a liquid in order to prevent the dispensing container from collapsing as the fluid is dispensed.

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teachings of **Benson** that the fluid dispensing units as taught by **Van Wormer** are old and well known to have a second container coupled to the fluid distribution station in order for the fluid distribution to have some

type of positive pressure within its container and prevent any negative pressure from building up and preventing the container from collapsing.

Response to Arguments

28. Applicant's arguments with respect to **claims 10 – 64** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure can be found in the PTO-892 Notice of References Cited.

30. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerardo Araque Jr. whose telephone number is

Application/Control Number:
10/784,052
Art Unit: 3629

Page 14

(571)272-3747. The examiner can normally be reached on Monday - Friday 8:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GA
12/23/07



DENNIS RUHL
PRIMARY EXAMINER